

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

DAVID SIDOO, *et al.*,

Defendants.

Case No. 1:19-CR-10080-NMG

**DEFENDANTS' ASSENTED-TO MOTION TO EXTEND BRIEFING SCHEDULE FOR
MOTION TO SEVER**

The defendants hereby request that the Court extend the deadline for the defendants to file their reply brief in support of their Motion to Sever Pursuant to Federal Rules of Criminal Procedure 12(b)(3)(D) and 14 (ECF No. 1033) (the "Motion to Sever"). As grounds therefore, the defendants state as follows:

1. On February 27, 2020, this Court ordered that all Rule 12 motions and motions to sever based on the trial groupings set by the Court would be due on April 1, 2020; that oppositions to those motions would be due on April 30, 2020; and that replies would be due on May 15, 2020. ECF No. 883.

2. The defendants filed their Motion to Sever on April 1, 2020. ECF No. 1033. On March 31 and April 1, 2020, the defendants cumulatively filed eighteen motions to dismiss, to sever, to strike, and/or to suppress evidence (the "Defendants' Motions"). *See* ECF No. 1122 (listing motions).

3. On April 29, 2020, the Government asked this Court to extend, from April 30 until May 8, 2020, the time for it to file its oppositions to ten of the Defendants' Motions. ECF No. 1122. The defendants assented to the motion, and the Court granted it on April 30. ECF No. 1129.

4. The Motion to Sever was not among the Defendants' Motions for which the Government sought an extension. ECF No. 1122. Accordingly, on April 30, 2020, the Government filed its opposition to the Motion to Sever. ECF No. 1136.

5. On May 5, 2020, Magistrate Judge Kelley held a final status conference and issued an Order and Final Status Report. ECF No. 1156. In that Order, Judge Kelley ordered that the defendants' replies to the oppositions the Government filed on April 30, 2020, would be due on May 15, 2020, and the defendants' replies to the oppositions the Government filed on May 8, 2020 would be due on May 27, 2020. *Id.*

6. Pursuant to Judge Kelley's May 5, 2020 Order, the defendants' reply in support of the Motion to Sever is due on May 15, 2020. ECF No. 1156.

7. As the Government acknowledged in its opposition, the Motion to Sever relies significantly upon "the same argument [the defendants] make in their parallel motion to dismiss: that the government has improperly joined them together in a single conspiracy." ECF No. 1136 at 1, referring to Defendants' Motion to Dismiss Pursuant to Federal Rules of Criminal Procedure 8 and 12(b)(3)(b)(i), (iv) and (v) (ECF No. 1031) (the "Defendants' Motion to Dismiss"). The Government filed its opposition to the Defendants' Motion to Dismiss on May 9, 2020, as part of an omnibus opposition to ten of the Defendants' Motions. ECF No. 1170. In that omnibus opposition, the government makes arguments that are directly relevant to the Motion to Sever.

8. The Government's omnibus opposition filed on May 9, 2020 bears directly on the defendants' reply in support of their Motion to Sever. That reply is necessarily informed by the

arguments the Government makes in its opposition to that Motion to Dismiss. The defendants' reply to the Motions addressed in the omnibus opposition is not due until May 27, 2020. Accordingly, the defendants respectfully request an extension of time to file their reply in support of their Motion to Sever to **May 27, 2020** to ensure that their replies in support of their various Motions are aligned, and to allow the defendants sufficient time to analyze and respond to the arguments raised in the omnibus opposition that bear directly upon the Motion to Sever.

9. The Government has assented to this motion.

WHEREFORE, for the foregoing reasons, the defendants respectfully request that this Court extend the deadline for the defendants to file their reply in support of their Motion to Sever (ECF No. 1033) to **May 27, 2020**.

DATED: May 11, 2020

Respectfully submitted,

/s/ Eóin P. Beirne

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LOCAL RULE 7.1(a)(2) CERTIFICATION

I hereby certify that I conferred with counsel for the government in an attempt to resolve or narrow the issues raised by this motion, and the government assents to this motion.

/s/ Eóin P. Beirne
Eóin P. Beirne (BBO # 660885)

CERTIFICATE OF SERVICE

I, Eóin P. Beirne, hereby certify that on May 11, 2020, this document, filed through the CM/ECF system, will be sent electronically to all registered participants in this matter as identified on the Notice of Electronic Filing (NEF).

/s/ Eóin P. Beirne
Eóin P. Beirne (BBO # 660885)